

# EXHIBIT 3

**1990 Tenn. Pub. Acts 938, ch. 1092, §§ 1-3**

PUBLIC ACTS and RESOLUTIONS  
of the  
STATE OF TENNESSEE  
Passed by the  
NINETY-SIXTH  
GENERAL ASSEMBLY  
Second Regular Session

1990

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Tennessee Code Annotated, Title 12, Chapter 5  
under the Direction of  
BRYANT MILLSAPS  
Secretary of State

## CHAPTER NO. 1092

## HOUSE BILL NO. 2219

By Naifeh, Hassell, Bell, Moody, Davis (Gibson), Love, Moore (Lawrence), Williams, Cain, Ridgeway, DeBerry, Byrd, Burnett, Kernell, Rhinehart, Henry (Roane), Buck, Wix, Purcell, Herron, Holt, Givens, Turner (Hamilton), Pinion, Stallings, Collier, Severance, Kent, Burchfield, Peroulas, Hobbs, Jackson, Mr. Speaker Murray

Substituted for: Senate Bill No. 2347

By Owen, Person, Darnell, Henry, Haynes

AN ACT to amend Tennessee Code Annotated, Title 39 and Title 29 relative to obscenity and pornography and abatement of nuisances resulting from obscenity and pornography.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-901(2), is hereby amended by deleting the words "the state of Tennessee" and substituting instead the words "the judicial district, as defined by Section 16-2-506, in which a violation is alleged to have occurred".

SECTION 2. Tennessee Code Annotated, Section 39-17-901(6)(B), is amended by inserting at the beginning of that subdivision the words "The average person applying contemporary community standards would find that".

SECTION 3. Tennessee Code Annotated, Section 39-17-901 is amended by adding the following appropriately numbered subsections:

( ) "Excess violence" means the depiction of acts of violence in such a graphic and/or bloody manner as to exceed common limits of custom and candor, or in such a manner that it is apparent that the predominant appeal of the material is portrayal of violence for violence's sake.

( ) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual excitement, sexual conduct, excess violence, or sadomasochistic abuse when the matter or performance:

(A) Would be found by the average person applying contemporary community standards to appeal predominantly to the prurient, shameful or morbid interests of minors;

(B) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) Taken as whole lacks serious literary, artistic, political or scientific values for minors.

( ) "Minor" means any person who has not reached the age of eighteen (18) and is not emancipated.

( ) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than full opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

( ) "Sadomasochistic abuse" means flagellation or torture or physical restraint by or upon a person for the purpose of sexual gratification of either person.

( ) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

SECTION 4. Tennessee Code Annotated, Section 39-17-902, is amended by adding the word and punctuation "produce," after the words "is unlawful to knowingly" but before the words "send or cause to be sent" in subsection (a);

AND IS FURTHER AMENDED by adding the following sentence at the end of subsection (b):

"However, this section shall not apply to those acts which are prohibited by Sections 39-17-1003 - 1005."

SECTION 5. Tennessee Code Annotated, 39-17-914, is amended by deleting it in its entirety and substituting instead the following:

39-17-914. Display for Sale or Rental of Material Harmful to Minors.

(a) It is unlawful for a person to display for sale or rental a visual depiction, including a video cassette tape or film, or a written representation, including a book, magazine, or pamphlet, which contains material harmful to minors anywhere minors are lawfully admitted.

(b) The state shall have the burden of proving that the material is displayed. Material is not considered displayed under this section if:

(1) The material is:

(A) Placed in "binder racks" that cover the lower two-thirds (2/3) of the material and the viewable one-third (1/3) is not harmful to minors; and

(B) Located at a height of not less than five and one-half (5 1/2) feet from the floor; and

(C) Reasonable steps are taken to prevent minors from perusing the material; or

(2) The material is sealed and if it contains material on its cover which is harmful to minors it must also be opaquely wrapped; or

(3) The material is placed out of sight underneath the counter; or

(4) The material is located so that the material is not open to view by minors and is located in an area restricted to adults.

(5) Unless its cover contains material which is harmful to minors, a video cassette tape or film is not considered displayed if it is in a form that cannot be viewed without electrical or mechanical equipment and such equipment is not being used to produce a visual depiction.

(6) In a situation if the minor is accompanied by their parent or guardian, unless the area is restricted to adults as provided for in 39-17-914 (b) (4).

(c) A violation of this section shall be a Class C misdemeanor for each day the person is in violation of this section.

SECTION 6. Tennessee Code Annotated, Title 39, Chapter 17, Part 9, is amended by deleting Sections 39-17-910, 39-17-912, 39-17-913, 39-17-915, 39-17-916 and 39-17-917 in their entirety and renumbering the remaining sections accordingly.